

FILED

SEP 21 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL J. FOX,

Defendant.

No. 3-05-70706

[PROPOSED] ORDER RE WAIVER
OF TIME UNDER F.R.Cr.P. 5.1 AND
FINDING EXCLUDABLE TIME
UNDER SPEEDY TRIAL ACT
18 U.S.C. § 3161(b); (h)(8)(A)&(B)(iv)

The parties appeared before the Court on September 13, 2005. The defendant was represented by Assistant Federal Public Defender Elizabeth Falk, and the United States was represented by Assistant United States Attorney Susan Badger. A criminal complaint was filed in this matter on August 30, 2005, and the defendant made his initial appearance before Magistrate Zimmerman that same date. The defendant was released on an unsecured personal recognizance bond.

At the appearance on September 13, 2005, AFD Falk advised the Court that she

[PROP.] ORDER
[3-05-70706]

1 was in the process of reviewing discovery with her client and was engaged in discussions
2 with the government regarding pre-indictment settlement of the case. The defendant
3 indicated that he was prepared to waive time for indictment under Rule 5.1(c) of the
4 Federal Rules of Criminal Procedure in order to facilitate the discussions about a possible
5 resolution. The parties agreed to continue the matter to October 6, 2005 at 9:30 a.m.
6 before Magistrate Judge Larson for arraignment or preliminary hearing.

7 The parties requested that the time between September 13, 2005 and October 6,
8 2005 be excluded from the provisions of the Speedy Trial Act, 18 U.S.C. 3161(b), in the
9 interests of justice and in order to provide reasonable time for effective preparation,
10 taking into account due diligence.

11 Upon the request of the parties and good cause appearing, the Court accepts the
12 defendant's waiver of time for indictment under F.R.Cr.P. 5.1©. Further, the Court finds
13 that the time between September 13, 2005 and October 6, 2005 is excluded from the time
14 requirements of the Speedy Trial Act, 18 U.S.C. 3161(b), in order to provide the parties
15 reasonable time for effective preparation, that is, to review discovery and discuss possible
16 settlement of the case, taking into account due diligence. 18 U.S.C. 3161(h)(8)(A) &
17 (B)(iv).

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19 IT IS SO ORDERED.

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22 JOSEPH C. SPERO
23 United States Magistrate Judge
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